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Chicago Columbus DuPage County, Ill.  
Indianapolis New York Philadelphia Washington, D.C.**MEMO ENDORSED**

March 22, 2022

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**Via ECF**

The Honorable Valerie Caproni  
 United States District Judge  
 U.S. District Court for the Southern District of New York  
 40 Foley Square, Room 240  
 New York, NY 10007

USDC SDNY  
 DOCUMENT  
 ELECTRONICALLY FILED  
 DOC #: \_\_\_\_\_  
 DATE FILED: 3/23/22

**Re: Joint Letter Regarding Request for Responsive Briefing Schedule in *10FN, Inc. v. Cerberus Business Finance, LLC et al.*, 21-CV-05996 (VEC)**

Dear Judge Caproni:

The undersigned firm represents plaintiff 10FN, Inc., as assignee of Network Innovations d/b/a Nitel, Inc. ("Plaintiff" or "10FN"), and respectfully submits this letter seeking an order or endorsement approving the parties' stipulated briefing schedule.

Plaintiff originally commenced this action against Defendants Cerberus Business Finance, LLC and Pepi Capital, L.P. (the "Lender Defendants") in the United States Bankruptcy Court for the Southern District of New York, NYSB Adversary Proceeding No. 21-1160. This Court subsequently withdrew the reference from the Bankruptcy Court. On January 21, 2022, the Court entered an order setting certain deadlines, including a deadline to amend the Complaint. *See* Dkt. No. 27. On February 18, 2022, Plaintiff timely filed its Amended Complaint (Dkt. No. 28), which added claims against four new defendants: Ken Saunders, Andrew Bronstein, Sascha Wittler, and Mark Grether (the "Individual Defendants").

The current deadline for the defendants to respond to the Amended Complaint is March 24, 2022, which the Court previously set by order dated March 4, 2022 (Doc. No. 54) on the request of the Lender Defendants. That was the only prior request. Certain of the new defendants have indicated that they intend to file cross claims against the Lender Defendants. To streamline the filing and briefing of responsive motions and cross claims by allowing the parties to consolidate their arguments with respect to the claims and any cross claims into a single filing if they so choose, the parties have stipulated as follows:

1. **Schedule.** The parties have stipulated to the following briefing schedule:

April 7                      Deadline for Individual Defendants to respond to the Amended Complaint<sup>1</sup>

<sup>1</sup> Filing a motion to dismiss does not preclude any Defendant from later filing a third-party complaint, cross-claims, or counterclaims with the answer if their motion to dismiss is denied.

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April 22	Deadline for Lender Defendants to respond to the Amended Complaint and any cross claims
May 20	Deadline for Plaintiff and Individual Defendants to file briefs in opposition to motions to dismiss the Amended Complaint or cross complaints
June 6	Deadline to file reply briefs

2. **Page Limits.** Each party, if it so chooses, may file a single consolidated motion to dismiss, response, or reply in lieu of filing separate motions to dismiss, responses, or replies. The page limit for any such consolidated filing shall be the aggregate of the page limit had such motions to dismiss, responses, or replies been filed separately, less five pages.

Respectfully Submitted,

/s/ John C. Cannizzaro

John C. Cannizzaro (admitted *pro hac vice*)

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**APPROVED:**

/s/ Andrew Gladstein

Andrew Gladstein

Counsel to Defendants Cerberus Business Finance, LLC and Pepi Capital, L.P.

/s/ Robert Knuts

Robert Knuts

Counsel to Defendant Andrew Bronstein

/s/ David Wander

David Wander

Counsel to Defendants Sascha Wittler and Mark Grether

/s/ Heath Rosenblat

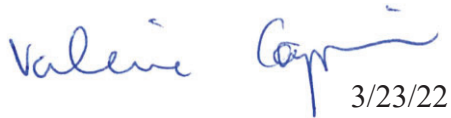
Heath Rosenblat

Counsel to Defendant Ken Saunders

Cc: All counsel of record (via ECF)

Application GRANTED. The deadline for individual Defendants to respond to the Amended Complaint is April 7, 2022; the deadline for the lender Defendants to respond to the Amended Complaint and any cross-claims is April 22, 2022; the deadline for Plaintiff and individual Defendants to file briefs in opposition to any motions to dismiss the Amended Complaint or cross-claims is May 20, 2022; and the deadline for reply briefs is June 6, 2022.

SO ORDERED.

Handwritten signature of Valerie Caproni in blue ink, with the date 3/23/22 written below it.

HON. VALERIE CAPRONI  
UNITED STATES DISTRICT JUDGE